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HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO:12741 of 1995

DATED: 21-12-2006

Between:

1. G.Sreenivasulu and 5 others

.....
PETITIONERS

AND

The Executive Officer, Tirumala Tirupathi Devasthanam, Tirumala, Chittoor District.

.....RESPONDENT

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ORDER:

Seeking a writ of mandamus to declare the action of the respondents in not engaging them in Class-IV posts, inspite of their past experience/service, as illegal, arbitrary, in violation of Articles 14, 16 and 21 of the Constitution of India, contrary to Section 25-H of the Industrial Dispute Act, 1947 and to appoint them in Class-IV posts in the respondent-TTD, the present writ petition is filed.

The petitioners claim to have worked as NMRs in the TTD for periods ranging from six months to three years. Along with the affidavit, filed in support of the writ petition, a statement is enclosed, wherein details of the service rendered by them has been furnished by the petitioners. According to the petitioners, several persons who had worked for periods less than 100 days were regularized or were engaged on daily wage basis. Petitioners would refer to W.P.No.11906 of 1993 wherein interim orders were passed directing the respondents to consider their claims as per their eligibility and in accordance with the rules under Section 25-H of the Industrial Disputes Act. Reference is made to the representations submitted by the petitioners and to an order of this Court in W.P.M.P.No.5758 of 1995 in W.P.No.4673 of 1995 dated 13-03-1995.

This Court, by order in W.P.M.P.No.15540 of 1995 in W.P.No.12741 of 1995 dated 26-06-1995, passed the following interim order:

> "Having regard to the facts and circumstances, I direct the petitioners to give a representation within two weeks from today giving details of their service particulars such as the number of days they worked with the respondent, the period during which they worked, the department in which they worked etc., and also similar service particulars of the juniors who are alleged to have been absorbed by the respondent ignoring the preferential claim of the

petitioners. On receipt of the representation as mentioned above, the respondent shall consider the same and pass appropriate orders as per rules applicable thereto within three months from the date of receipt of their representation.

Petition is disposed of accordingly."

As the petitioners allege violation of Section 25-H of the Industrial Disputes Act, the questions which would arise for consideration as to whether the respondent-TTD is an industry, whether the petitioners are workmen under Section 2 (s) of the Industrial Disputes Act, whether they were engaged by the respondent-TTD etc, are all matters which are required to be adjudicated on the basis of the evidence and since this Court, in proceedings under Article 226 of the Constitution of India, would not, ordinarily, adjudicate such disputed questions of fact, these questions do not call for examination in the present writ petition.

Leaving it open to the petitioners herein to avail such other remedies, as are available to them in law, the writ petition is accordingly dismissed. It is made clear that this order would not preclude the respondent-TTD from engaging the services of the petitioners if it considers it necessary to do so in accordance with law. No costs.

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21st December, 2006

SKM